

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION

FILED

MAR 10 2000

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY [Signature]  
DEPUTY CLERK

P.V. PATEL, M.D.; P.V. PATEL, M.D.,  
a Professional Association; THE HEART  
CARDIOVASCULAR & INTERNAL  
MEDICINE, a Professional Association;  
and ECHO LAB, INC.  
*Plaintiffs*

v.

MO-99-CA-159

MIDLAND MEMORIAL HOSPITAL;  
MEMORIAL HEART & VASCULAR  
INSTITUTE; PERMIAN CARDIOLOGY  
GROUP; STEPHEN BROWN, M.D.;  
MICHAEL MILLER, M.D.; JAMES H.  
BARNETT, M.D.; JOHN FOSTER, JR., M.D.;  
JAY MENDEZ, M.D.; DONALD LOVEMAN,  
M.D. AND HAROLD RUBIN  
COUNTRY FOOD STORES  
*Defendants*

ORDER DENYING ORIGINAL MOTION TO DISMISS AS MOOT

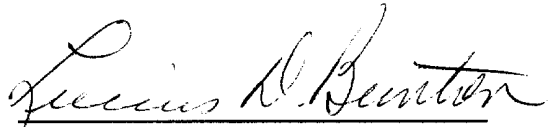
BEFORE THE COURT are Defendant Foster's Motion to Dismiss Plaintiff's First Amended Complaint and Supporting Brief filed March 8, 2000 and Defendant Foster's Motion to Dismiss Plaintiff's First Amended Complaint and Supporting Brief filed March 9, 2000. Although both motions have the same title, it is evident from the footer that Defendant Foster's March 9, 2000 motion is intended to be an amended motion to dismiss. To avoid confusion on the Court's docket, and because Defendant Foster's amended motion essentially nullifies his original motion, the Court elects at this time to deny the original motion as moot. Accordingly,

IT IS ORDERED that Defendant Foster's Motion to Dismiss Plaintiff's First Amended Complaint and Supporting Brief filed March 8, 2000 is hereby **DENIED AS MOOT**.

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Defendant Foster's Motion to Dismiss Plaintiff's First Amended Complaint and Supporting Brief  
filed March 9, 2000 shall remain a live motion on the Court's docket.

**SIGNED** this 10 day of March, 2000.

  
**LUCIUS D. BUNTON, III**  
**SENIOR UNITED STATES DISTRICT JUDGE**